IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1906 of 1998

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18.3.1996 in W.P.No: 18833 of 1987 on the file of the High Court.)

Between:

1. Vanga Narasaiah, S/o Durgaiah and 93 others

..... APPELLANTs

AND

1. The District Collector,

Nizamabad

2. The Land Acquisition Officer/M.D.O, Kamareddy

3. The Executive Engineer (Irrigation), I.D IB Division,

Nizamabad.

.....RESPONDENTs

Counsel for the Appellants: MRK.M.MAHENDER REDDY

Counsel for the Respondents.: GP FOR LAND ACQUISITION

The Court made the following :

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Oral Order: (Per Sri BRSR.J)

The petitioners in W.P.No.18833 of 1987 are the appellants in this writ appeal. They have filed the writ petition challenging the action of the respondents in acquiring the lands belonging to them as illegal and without jurisdiction. They have prayed for a consequential direction directing the respondents to initiate fresh proceedings by issuing appropriate notification under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act').

That the lands belonging to the petitioners admeasuring an extent of Ac.22.00 have been acquired for the purpose of formation of a percolation tank across Pochamma vagu. The possession of the lands was taken over in the year 1981 though according to the appellants it was taken over in the year 1978. Their case is that the notification under Section 4(1) of the Act was published on 8.11.1982. Even before the publication of the draft notification proposing to acquire the lands, the respondents have started construction of the percolation tank after taking over possession of the lands. That after conducting an enquiry, an award was passed on 22.9.1986. There is no dispute that the appellants have withdrawn the compensation paid to them under the award. According to them, a copy of the award was not furnished to them and that forced them to file W.P.No.15057 of 1986 seeking directions from this Court to refer the matter under Section 18 of the Act for proper determination of the

market value of the acquired land. That according to the appellants, in spite of the directions from this Court, the respondents have not referred the matter under Section 18 of the Act with which we are not concerned for the present in this writ appeal.

The appellants have assailed the notification and as well as the award passed by the Land Acquisition Officer. We fail to appreciate as to how the appellants could have filed the present writ petition assailing the notification after receiving the compensation under the award passed by the Land Acquisition Officer dated 22.9.1986. That if the Land Acquisition Officer failed to refer the matter for determination of the compensation by a competent court of civil jurisdiction, nothing prevented the appellants herein from bringing that fact to the notice of the Court in W.P.No.15057 of 1986. But for whatever reasons, the learned single Judge having entertained the writ petition declared that the appellants are entitled for additional amount under Section 23(1-A) of the Act from the date of taking possession i.e. 1.6.1981 till the date of passing of the award, for the loss of enjoyment of the land. Directions have been accordingly issued directing the respondents to calculate compensation including additional amount at 12% per annum from 1.6.1981 till the date of passing of the award. We do not propose to express any opinion on the question as to whether such relief could have been granted by the learned single Judge in the writ petition since the State did not prefer any appeal against that order. We are not inclined to grant any further relief whatsoever in this writ petition since, in our considered opinion, the writ petition itself is misconceived.

The writ appeal fails and shall accordingly stand dismissed without any order as to costs.

(B.SUDERSHAN REDDY,J)

dated 30..03..2005

(C.V.RAMULU,J)

msv

TO

1. The District Collector,

Nizamabad

2. The Land Acquisition Officer/M.D.O, Kamareddy

3. The Executive Engineer (Irrigation), I.D IB Division,

Nizamabad.

4. 2 CCs to G.P. for Land Acquisition, High Court of A.P. Hyderabad (OUT)

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